

performed and materials furnished under this contract, the Contractor shall—

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government as directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the Contractor's negligence, or the negligence of a subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor the repair of any damage resulting from any defect in Government-furnished material or design.

(j) This warranty shall not limit the Government's right under the Inspection clause of this contract, with respect to latent defects, gross mistakes, or fraud.

(End of clause)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[I.D. 061396A]

Atlantic Surf Clam and Ocean Quahog Fisheries; Notice of Availability for Amendment 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 9 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) for Secretarial review and is requesting comments from the public. The amendment would revise overfishing definitions for Atlantic surf clams and ocean quahogs.

DATES: Comments must be received on or before August 13, 1996.

ADDRESSES: Send comments to Dr. Andrew Rosenberg, Regional Director, National Marine Fisheries Service, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope

“Comments on Overfishing Definitions for Clams and Quahogs.”

Copies of Amendment 9 and the environmental assessment are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508-281-9104.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) requires that each fishery management council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, on behalf of the Secretary, upon receiving the plan or amendment, immediately make a preliminary evaluation of whether the amendment is sufficient to warrant continued review, and publish a document that the plan or amendment is available for public review and comment. NMFS will consider the public comments in determining whether to approve the amendment.

Amendment 9, if approved, would revise overfishing definitions for the stocks managed under the FMP in compliance with the NOAA Guidelines for Fishery Management Plans (50 CFR part 602).

During its discussions of the 1996 quota recommendations, the Council considered revising the overfishing definitions specified in the FMP. Overfishing is presently defined for both species in terms of actual yield levels—that is, overfishing is defined as harvests in excess of the specified quota levels. This definition does not incorporate biological considerations to protect against overfishing. NMFS has concluded that a harvesting strategy based on Council policy is no longer acceptable, since it depends on the Council taking appropriate action, rather than adhering to a rate-based biological standard. The overfishing definition proposed by the Council for surf clams as contained in Amendment 9 is a fishing mortality rate of $F_{20\%}$ (20 percent of maximum spawning potential (MSP)), which equates to an annual exploitation rate of 15.3 percent. The overfishing definition proposed by the Council for ocean quahogs as contained in Amendment 9 is a fishing mortality of $F_{25\%}$ (25 percent of MSP), which equates to an annual exploitation rate of 4.3 percent.

The receipt date for this amendment is June 12, 1996. No proposed or final regulations will be published for this amendment, because, if it is approved, no changes will be needed in the codified regulatory text that implements this FMP.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 14, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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50 CFR Part 652

[Docket No. 960531155-6155-01; I.D. 050996B]

Atlantic Surf Clam and Ocean Quahog Fishery; Control Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; consideration of a control date.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) is considering limiting future access to anyone entering that portion of the ocean quahog (*Arctica islandica*) fishery, commonly referred to as the Maine mahogany quahog fishery, that is managed through the Maine Mahogany Quahog Experimental Fishery Program after June 20, 1996 (control date). Future access to the Maine mahogany quahog resource in the exclusive economic zone (EEZ) will not be assured beyond the control date if a management regime is developed and implemented under the Magnuson Fishery Conservation and Management Act (Magnuson Act) that limits the number of participants in the fishery. This document is intended to promote awareness of potential eligibility criteria for future access to that portion of the ocean quahog fishery managed through the Maine Mahogany Quahog Experimental Fishery Program and to discourage new entries into this fishery based on economic speculation while the Council contemplates whether and how access should be controlled. The potential eligibility criteria may be based on historical participation, defined as any number of trips having any documented amount of ocean quahog landings. This document, therefore, gives the public notice that they should locate and preserve records